

1507 - 21st Street, Suite 330
Sacramento, California 95811
Telephone: (916) 445-1888
Contact Person: Kathy Tomono
www.nmvb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board held a Special meeting on December 13, 2007, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

Robert T. (Tom) Flesh, Vice President of the Board, called the meeting of the Board to order at 9:12 a.m.

Present:	Ramon Alvarez C.	William G. Brennan, Executive Director
	Robert V. Branzuela	Howard Weinberg, General Counsel
	Ryan L. Brooks (arrived 9:42)	Robin Parker, Senior Staff Counsel
	Robert T. (Tom) Flesh	Polly Riggensbach, Staff Counsel
	Glenn E. Stevens	
	David W. Wilson	

Absent: David C. Lizárraga
Haig Papaian
Alan J. Skobin

Agenda items 15 and 16 were taken out of order pending the arrival of Mr. Brooks.

15. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), the Board shall convene in a closed Executive Session.

a. **ORAL INTERVIEW OF THE ADMINISTRATIVE LAW JUDGE
CANDIDATE, BY ALL MEMBERS OF THE BOARD - ADMINISTRATION
COMMITTEE**

The Public and Dealer members of the Board conducted an oral interview of the Administrative Law Judge candidate.

b. **CONSIDERATION OF THE ADMINISTRATIVE LAW JUDGE NOMINEE,
BY ALL MEMBERS OF THE BOARD - ADMINISTRATION COMMITTEE**

The Public and Dealer members of the Board considered the administrative law judge nominee, Linda Waits. Mr. Stevens moved to offer a position to Ms. Waits. Ms. Waits would not be added to the case assignment log until her training was completed. Mr. Wilson seconded the motion. The motion carried unanimously.

16. **OPEN SESSION**

Mr. Flesh returned to open session.

3. **BOARD MEMBER EDUCATION CONCERNING THE IMPACT OF THE CAR BUYER'S BILL OF RIGHTS ON THE AUTOMOBILE INDUSTRY AND THE DEPARTMENT OF MOTOR VEHICLES, BY MARY GARCIA, BRANCH CHIEF, OCCUPATIONAL LICENSING, DEPARTMENT OF MOTOR VEHICLES - BOARD DEVELOPMENT COMMITTEE**

Mary Garcia, Branch Chief, Occupational Licensing, for the Department of Motor Vehicles ("DMV") discussed with the members and staff the impact of the Car Buyers Bill of Rights on the automobile industry and the DMV. Ms. Garcia reported that the DMV has received 25 consumer complaints concerning the contract cancellation option. Additionally, the DMV sent 15,000 surveys to recent car purchasers concerning their car buying experience. The results of the survey are forthcoming. Rosemary Shahan, President, Consumers for Automobile Reliability and Safety (CARS), questioned DMV's timetable for completion of their regulations regarding the Car Buyers Bill of Rights. Ms. Garcia indicated that the DMV Legal Affairs Division was reviewing the draft regulations. Ms. Shahan reported that her organization had discouraged other states from adopting similar legislation until the kinks are worked out in California.

4. **ORAL ARGUMENTS BEFORE THE PUBLIC MEMBERS OF THE BOARD**

The Dealer Members did not participate in these items because the Board's policy concerning Dealer Member participation in Article 5 RV protests was under Board review, and counsel for Respondent did not stipulate to allow Dealer Member participation in this particular protest. However, the current policy provides for Dealer Member participation in all Article 5 RV protests.

MANTECA TRAILER AND CAMPER INC. dba RVS OF SACRAMENTO v. HOME AND PARK MOTORHOMES ROADTREK
Protest No. PR-2036-07

MANTECA TRAILER AND CAMPER INC. dba BRAWLEY'S RV v. HOME AND PARK MOTORHOMES ROADTREK
Protest No. PR-2074-07

Oral arguments were presented before the Public members of the Board. Michael M. Sieving of the Law Offices of Michael M. Sieving represented Protestant. Robert Jarvis, Esq. represented Respondent.

5. **CLOSED EXECUTIVE SESSION DELIBERATIONS**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CONSIDERATION OF PROPOSED DECISION

MANTECA TRAILER AND CAMPER INC. dba RVS OF SACRAMENTO v. HOME AND PARK MOTORHOMES ROADTREK

Protest No. PR-2036-07

MANTECA TRAILER AND CAMPER INC. dba BRAWLEY'S RV v. HOME AND PARK MOTORHOMES ROADTREK

Protest No. PR-2074-07

Consideration of the Administrative Law Judge's Proposed Decision, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Mr. Brooks moved to adopt the Administrative Law Judge's Proposed Decision. Mr. Stevens seconded the motion. The motion carried unanimously.

6. **OPEN SESSION**

The Public Members returned to Open Session. Mr. Flesh announced the decision in Agenda Item 5.

7. **CONSIDERATION OF WHETHER TO REQUEST THE DEPARTMENT OF MOTOR VEHICLES TO WITHHOLD RENEWAL AND/OR SUSPEND THE EXISTING OCCUPATIONAL LICENSE OF AMERICAN HOT ROD MANUFACTURING, LLC AND MOTOMAN DISTRIBUTING FOR FAILURE TO PAY THE ANNUAL BOARD FEE (13 CCR § 553) - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning whether to request the Department of Motor Vehicles to withhold renewal and/or suspend the existing occupational licenses of American Hot Rod Manufacturing,

LLC (“Hot Rod”) and Motoman Distributing (“Motorman”) for failure to pay the annual Board fee. Ms. Parker reported that numerous staff attempts were made to communicate both by writing and telephone with the licensees and they were both unwilling to pay the Annual Board Fee. Mr. Stevens moved to exercise the Board’s authority under Vehicle Code section 3050(c)(3), to request the Department of Motor Vehicles to withhold the renewal of Hot Rod’s and Motorman’s occupational license and/or suspend their existing licenses until the fees had been paid. Mr. Wilson seconded the motion. The motion carried unanimously.

8. **UPDATE CONCERNING MANUFACTURER AND DISTRIBUTOR COMPLIANCE WITH THE BOARD’S REQUEST THAT STATUTORILY MANDATED SCHEDULES OR FORMULAS BE FILED WITH THE BOARD (VEHICLE CODE SECTIONS 3064/3074, AND 3065/3075), AND DISCUSSION AND CONSIDERATION CONCERNING HOW TO HANDLE THOSE LICENSEES THAT ARE NOT IN COMPLIANCE - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Polly Riggensbach concerning manufacturer and distributor compliance with the Board’s request that statutorily mandated schedules or formulas be filed with the Board. Ms. Riggensbach reported that two additional manufacturers were in compliance with the statutory requirements. Additionally, Ms. Riggensbach reported that the staff was proposing a policy to encourage manufacturer compliance with the statutory requirements. The policy as outlined in the memo is as follows:

- (1) Send an initial notice in January of each year, directed to all manufacturers identified by the Department of Motor Vehicles as being within the Board’s Jurisdiction and having dealers in California. Manufacturers with current filings, i.e., less than three years old, will also receive the notice to encourage current and up-to-date filings. The manufacturers will have eight (8) weeks from the date of the notice to submit compliant documents.
- (2) Send a “Second Notice” to all manufacturers who have not responded or do not already have current documents on file with the Board, giving the manufacturers an additional four (4) weeks from the date of the letter to comply with the pertinent Vehicle Code sections.
- (3) Send a “Third and Final Notice” to all noncompliant manufacturers explaining that the matter will be placed on the Board’s next agenda for Board consideration as to whether or not to exercise the Board’s authority under Vehicle Code section 3050(c) unless compliant filings are received within two (2) weeks from the date of the letter.
- (4) If compliant filings are not timely submitted, the matter will be placed on the Board’s next agenda and a letter will be sent via Certified Mail, Return Receipt Requested, to the licensee along with a copy of the agenda.

- (5) At the noticed Board Meeting, the members will determine whether to request that the Department withhold the renewal and/or suspend the existing occupational license of the manufacturer for failure to comply with the pertinent Vehicle Code sections.
- (6) If the Board decides to seek licensing action, the Board's General Counsel will coordinate with the Department's General [Chief] Counsel to have the Department take disciplinary actions against the licensee. [Vehicle Code section 11705(a)(7) does not include a reference to Vehicle Code sections 3074 and 3075 and thus there are no sanctions pursuant to the licensing statutes available against RV manufacturers that fail to submit delineated warranty and delivery and preparation documentation to the Board.]

Mr. Brooks moved to adopt the staff recommendation. Mr. Flesh seconded the motion. The motion carried unanimously.

9. **ANNUAL UPDATE CONCERNING THE NUMBER OF MONTHLY HITS TO THE BOARD'S WEBSITE AND WHERE INFORMATION IS BEING SOUGHT; DISCUSSION CONCERNING WHETHER THE BOARD CAN CONTROL WEBSITE UPDATES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Kathy Tomono concerning the number of monthly hits to the Board's website and where the information is being sought. Ms. Tomono reported that the Board staff is working closely with the DMV to gain more control of website updates and that the DMV has been responsive to the Board's request for timely edits to its website.

10. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 1st QUARTER OF FISCAL YEAR 2007-2008 - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for the first quarter of fiscal year 2007-2008. Mr. Brennan reported that the Board expended 26% of its appropriated budget for the first quarter and that the Board was fiscally sound.

11. **ANNUAL STATUS REPORT CONCERNING THE BOARD'S COLLECTION OF ITS ANNUAL FEE (13 CCR § 553.10) - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Linda Lighter concerning the status of the Board's collection of its annual fee. Mr. Brennan indicated that out of 207 invoices only two manufacturers, American Hot Rod Manufacturing, LLC and Motoman Distributing failed to pay the required fee. [See Agenda item 7]. The Board collected \$831,756.64.

12. **DISCUSSION OF THE BOARD'S RV INDUSTRY FOCUSED ROUNDTABLE IN NOVEMBER 2008, AND THE BOARD'S 7th ANNUAL INDUSTRY ROUNDTABLE IN MARCH 2009 - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

Mr. Brennan discussed the planned Roundtables for 2008 and 2009. The California Recreation Vehicle Dealers Association (CalRVDA) will meet in January 2008 to finalize the date for their November conference. Mr. Brennan reported that Skip Daum, the CalRVDA Executive Director, thought the RV industry focused Roundtable was a good idea. Mr. Flesh requested that the Board's administrative law judges attend the RV Roundtable. Mr. Brennan also reported on the California Motor Car Dealers Association (CMCDA) State Convention that is planned for May 1-2, 2008, in Indian Wells. Mr. Brennan discussed holding a General Meeting on April 30, 2008. Mr. Alvarez indicated that his dealership, Alvarez Lincoln Mercury Jaguar, was hosting an event on May 2, 2008, that he would like the Board Members and staff to attend.

13. **ANNUAL REPORT OF STAFF PARTICIPATION IN THE CALIFORNIA STATE EMPLOYEES CHARITABLE CAMPAIGN (CSECC)**

The members were provided with a memorandum from Bill Brennan and Polly Riggensbach concerning staff participation in the California State Employees Charitable Campaign. Ms. Riggensbach reported 100% staff participation. In addition, the campaign received donations from several Board members and Administrative Law Judges. Ms. Riggensbach indicated that the Governor challenged all State agencies to increase their donations by 42%; the Board increased its donations by almost 100% and donated \$4,265.

14. **SELECTION OF BOARD MEETING DATES FOR 2008**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning upcoming Board meeting dates. The members went off the record for this discussion. Mr. Flesh went on the record and Ms. Parker announced the following meeting dates: February 11, 2008, General Meeting in San Francisco; March 25, 2008, Special Meeting in Sacramento if there are case management matters and the Public Members are available to attend; April 30, 2007, General Meeting in Indian Wells; and May 2, 2008, Special Meeting in Riverside.

17. **PUBLIC COMMENT (GOV. CODE § 11125.7)**

No additional public comment was presented.

18. **ADJOURNMENT**

Mr. Wilson moved to adjourn the meeting. Mr. Brooks seconded the motion. With no further business to discuss, the meeting was adjourned at approximately 11:54 a.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____

Alan J. Skobin
President
New Motor Vehicle Board